

## SUBCHAPTER D—COVERAGE AND BENEFITS

### PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

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APPENDIX D TO PART 4022—MAXIMUM GUARANTEEABLE MONTHLY BENEFIT

AUTHORITY: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

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#### Subpart A—General Provisions; Guaranteed Benefits

##### § 4022.1 Purpose and scope.

The purpose of this part is to prescribe rules governing the calculation and payment of benefits payable in terminated single-employer plans under section 4022 of ERISA. Subpart A, which applies to each plan providing benefits guaranteed under title IV of ERISA, contains definitions applicable to all subparts, and describes benefits that are guaranteed by the PBGC subject to the limitations set forth in subpart B. Subpart C is reserved for rules relating to the calculation and payment of unfunded nonguaranteed benefits under section 4022(c) of ERISA. Subpart D prescribes procedures that minimize the overpayment of benefits by plan administrators after initiating

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distress terminations of single-employer plans that are not expected to be sufficient for guaranteed benefits. Subpart E sets forth the method of recoupment of benefit payments in excess of the amounts permitted under sections 4022, 4022B, and 4044 of ERISA from participants and beneficiaries in PBGC-trusteed plans, and provides for reimbursement of benefit underpayments. (The provisions of this part have not been amended to take account of changes made in section 4022 of ERISA by sections 766 and 777 of the Retirement Protection Act of 1994.)

[61 FR 34028, July 1, 1996, as amended at 62 FR 67728, Dec. 30, 1997]

### § 4022.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: annuity, Code, employer, ERISA, guaranteed benefit, mandatory employee contributions, nonforfeitable benefit, normal retirement age, notice of intent to terminate, PBGC, person, plan, plan administrator, plan year, proposed termination date, substantial owner, and title IV benefit.

In addition, for purposes of this part (unless otherwise required by the context):

*Accumulated mandatory employee contributions* means mandatory employee contributions plus interest credited on those contributions under the plan, or, if greater, interest required by section 204(c) of ERISA.

*Benefit in pay status* means that one or more benefit payments have been made or would have been made except for administrative delay.

*Benefit increase* means any benefit arising from the adoption of a new plan or an increase in the value of benefits payable arising from an amendment to an existing plan. Such increases include, but are not limited to, a scheduled increase in benefits under a plan or plan amendment, such as a cost-of-living increase, and any change in plan provisions which advances a participant's or beneficiary's entitlement to a benefit, such as liberalized participation requirements or vesting schedules, reductions in the normal or early retirement age under a plan, and changes in the form of benefit payments. In the case of a plan under which the amount

of benefits depends on the participant's salary and the participant receives a salary increase the resulting increase in benefits to which the participant becomes entitled will not, for the purpose of this part, be treated as a benefit increase. Similarly, in the case of a plan under which the amount of benefits depends on the participant's age or service, and the participant becomes entitled to increased benefits solely because of advancement in age or service, the increased benefits to which the participant becomes entitled will not, for the purpose of this part, be treated as a benefit increase.

*Covered employment* means employment with respect to which benefits accrue under a plan.

*Pension benefit* means a benefit payable as an annuity, or one or more payments related thereto, to a participant who permanently leaves or has permanently left covered employment, or to a surviving beneficiary, which payments by themselves or in combination with Social Security, Railroad Retirement, or workmen's compensation benefits provide a substantially level income to the recipient.

*Straight life annuity* means a series of level periodic payments payable for the life of the recipient, but does not include any combined annuity form, including an annuity payable for a term certain and life.

### § 4022.3 Guaranteed benefits.

Except as otherwise provided in this part, the PBGC will guarantee the amount, as of the termination date, of a benefit provided under a plan to the extent that the benefit does not exceed the limitations in ERISA and in subpart B, if—

(a) The benefit is, on the termination date, a nonforfeitable benefit;

(b) The benefit qualifies as a pension benefit as defined in § 4022.2; and

(c) The participant is entitled to the benefit under § 4022.4.

[61 FR 34028, July 1, 1996; 61 FR 67943, Dec. 26, 1996]

### § 4022.4 Entitlement to a benefit.

(a) A participant or his surviving beneficiary is entitled to a benefit if under the provisions of a plan: